CHAPTER 117
OUTDOOR ADVERTISING

[Prior to 6/3/87, Transportation Department[820]—(06,O) Ch 5]

761—117.1(306B,306C) Definitions. The definitions in Iowa Code section 306C.10 are adopted. In addition:

"Abandoned sign" means an advertising device for which the owner has failed to timely apply for the required outdoor advertising permit(s) or has failed to timely pay the required fee(s).

"Billboard control Act" means Iowa Code chapter 306C, division II.

"Bonus Act" means Iowa Code chapter 306B.

"Daylight area" means a triangular area formed by a line connecting two points each back (50 feet in city, 100 feet in unincorporated area) from the point where the right of way lines of the main traveled way and an intersecting street meet or would meet if extended.

"Directional and official signs and notices" means official signs and notices, public utility signs, service club and religious notices, public service signs, directional signs, and municipal, county and school district recognition signs.

"Directional sign" means a sign governed by 761—Chapter 120.

"Face" means that part of an advertising device that is devoted to the display of advertising and that is visible to traffic proceeding in any one direction.

"Interchange" means the entire area constructed for a junction of two or more public streets or highways by a system of separate levels that permit traffic to pass from one level to another without the crossing of traffic streams. This includes all acceleration and deceleration lanes constructed to accommodate this movement of traffic.

"Lease" means an agreement, oral or written, by which possession or use of land or interests therein are given by the owner or other person to another person for a specified purpose.

"Modification" means any addition to or change in dimensions, lighting, structure or advertising face, except as incidental to the customary maintenance of an advertising device.

1. A change in the number or type of support posts is a modification. A change in dimensions, other than the addition of extensions or cutouts (including forward projecting) for a period of 90 days or less, is a modification.
2. A lawful change in advertising message is not a modification. The use of a vinyl overlay or wrap on either a poster panel or paint unit is a change in advertising message, not a modification.

"Municipal, county or school district recognition sign" means an official recognition sign erected and maintained by a city, county or school district within its territorial or zoning jurisdiction. The recognition sign is limited to displaying a message that identifies the city, county or school district and its boundaries, public services, and noncommercial attractions of a scenic, historical, cultural, scientific, educational or recreational nature that are located therein.

"Nonconforming sign" means an advertising device that was lawfully erected and continues to be lawfully maintained, but that does not comply fully with current size and spacing requirements due to changed conditions, such as a change in zoning, establishment of a new highway, or a similar change that affects compliance.

"Obsolete sign" means an advertising device displaying information pertaining to activities that are no longer conducted or products or services that are no longer available at the advertised location.

"Official sign or notice" means a sign or notice lawfully erected and maintained by a public agency within its territorial or zoning jurisdiction for the purpose of carrying out an official duty or responsibility. The definition includes a historical marker lawfully erected by a state or local government agency or a nonprofit historical society.

"On-premise sign" means an advertising device advertising the sale or lease of, or activities being conducted upon, the property where the sign is located. The criteria to be used to determine if an advertising device qualifies as on-premise signing include but are not limited to the following:

1. A sign that consists solely of the name of the establishment or that identifies the establishment's principal or accessory products or services offered on the property is an on-premise sign.
2. An on-premise sign must be located on the same property as the advertised activity or the same property as that advertised for sale or lease. A subdivided property is considered to be one property if all lots remain under common ownership and all lots share a common, private access to public roads. However, if any lot in the subdivided property is sold or disposed of in any manner, that lot will be considered to be separate property.
3. Contiguous lots or parcels of land combined for development purposes are considered to be one property for outdoor advertising control purposes provided they are owned or leased by the same party or parties. However, land held by lease or easement must be used for a purpose related to the advertised activity other than signing.
4. An on-premise sign shall not be located on a narrow strip of land that cannot reasonably be used for a purpose related to the advertised activity other than signing.
5. An on-premise sign is limited to advertising the property's sale or lease, or identifying the activities located on or products or services available on the property.
6. An advertising device is not an on-premise sign if it consists principally of brand- or trade-name advertising and either the product or service advertised is only incidental to the establishment's principal products or services or the advertising brings rental income to the property owner. "Principally" means 50 percent or more of the display area of the sign.
7. An on-premise sign concerning the sale or lease of property shall not display the legend "sold" or "leased" or a similar message.

"Public utility sign" means a warning or informational sign, notice or marker that is customarily erected and maintained by a publicly or privately owned utility to mark the location of a utility facility.

"Scenic area" means any area of particular scenic beauty or historical significance, as determined by the federal, state or local officials having jurisdiction of the area. It includes real property interests that have been acquired for the restoration, preservation and enhancement of scenic beauty.

"Service club or religious notice" means a sign displaying a message that is limited to the name of a nonprofit service club, charitable association or church or religious group, the location and hours of its meetings or services, and an appropriate emblem.

"Tri-face device" means an advertising device with three singular faces attached to one common structure in a triangular configuration. The maximum area of any face is 750 square feet. The inside angle formed by any two faces may not exceed 60 degrees.

"Tri-vision device" means an advertising device that has an advertising face with a mechanical device that allows three advertising messages to be alternately visible to traffic proceeding in any one direction. Each message is attached to individual vertical or horizontal louvers, which are mechanically rotated to change the message.

761—117.2(306B,306C) General provisions.

117.2(1) *Scope.* This chapter of rules pertains to all advertising devices which are visible from the main traveled way of any interstate, freeway-primary, or primary highway, with the following exceptions:

a. Within incorporated areas, this chapter does not apply to advertising devices which are beyond 660 feet from the nearest edge of the right of way.

b. Except where specified otherwise, this chapter does not apply to official traffic control devices, logo signing, tourist-oriented directional signing, or private directional signing.

117.2(2) *Contact information.* Inquiries, requests for forms, and applications regarding this chapter shall be directed to the Advertising Management Section, Office of Traffic and Safety, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

117.2(3) *Unauthorized signs, signals, or markings (321.259).* In addition to the provisions of these rules, any sign, signal, marking or device prohibited by Iowa Code section 321.259 is a public nuisance and shall be removed by the department if it is within its jurisdiction.

117.2(4) *Obstruction of the highway or railway (319.10, 657.2(7)).* In addition to these rules, any advertising device, any other provision to the contrary notwithstanding, which obstructs the view of any portion of a public highway, public street, avenue, boulevard, alley, street, railroad, or railway tract as to render dangerous the use of a public highway in violation of Iowa Code section 319.10 and subsection 657.2(7), is a public nuisance and shall be enforced accordingly.

117.2(5) *Advertising devices within the right of way (319.12).* In addition to these rules, any advertising device placed or erected within the right of way of any primary, freeway-primary, or interstate highway, except signs or devices authorized by law or approved by the department, in violation of Iowa Code section 319.12 shall be removed and the costs assessed against the owner of the sign or device as provided by Iowa Code section 319.13.

761—117.3(306B,306C) General criteria. The department shall control the erection and maintenance of advertising devices, subject to the provisions of these rules, in accord with the following criteria:

117.3(1) *Prohibition*. Advertising devices shall not be erected, maintained or illuminated unless they comply with the following:

a. No sign shall attempt or appear to attempt to direct the movement of traffic.

b. No sign shall interfere with, imitate or resemble any official sign, signal or device.

c. No directional sign or sign subject to the more restrictive controls of the bonus Act shall move or have any animated or moving parts.

d. No sign shall be erected or maintained upon trees, painted or drawn upon rocks or other natural features.

e. No sign shall include any flashing, intermittent or moving light or lights except those signs giving public service information such as time, date, temperature, weather and news. Any variation or addition to the stated service information shall be subject to approval by the department.

f. No lighting shall be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of any highway, or is of such low intensity or brilliance as to not cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

g. No directional sign or sign subject to the more restrictive controls of the bonus Act shall be obsolete.

h. Signs shall be maintained in good repair so as to be legible. Any advertising device that for a period of at least 90 days is in a state of disrepair or is illegible due to deferred maintenance is subject to removal in the manner specified in subrule 117.8(2) or 117.8(3), as applicable, and any permit that has been issued for the advertising device is subject to revocation.

i. Signs shall be securely affixed to a substantial structure.

j. No directional sign or sign subject to the more restrictive controls of the bonus Act shall advertise activities which are illegal under federal or state laws in effect at the location of those activities or at the location of the sign.

k. An advertising device shall comply with all applicable state and local laws, regulations and ordinances, including but not limited to zoning, building and sign codes as locally interpreted and applied and enforced, which may be stricter than this chapter.

l. No off-premises advertising device may be erected within the adjacent area of any interstate, freeway-primary or primary highway that has been designated a scenic highway or scenic byway if the advertising device will be visible from the highway.

117.3(2) *Measurements of distance*. Distance from the edge of a right of way shall be measured horizontally along a line normal or perpendicular to the centerline of the highway. All other measurements of distance shall be measured horizontally between points on a line parallel to the highway centerline.

117.3(3) *Measurement of area*. The area of an advertising device shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire display area including border and trim, but excluding temporary cutouts and extensions, base, apron, support, and other structural members.

117.3(4) *Zoning.*

a. A zone in which limited commercial or industrial activities are permitted incidental to other primary land uses is not a commercial or industrial zone for outdoor advertising control purposes.

b. Action which is not a part of comprehensive zoning and is taken primarily to permit outdoor advertising devices is not zoning for advertising control purposes.

761—117.4(306B,306C) Interstate special provisions. This rule applies to advertising devices located within the adjacent area of any interstate highway, except that subrules 117.4(1), 117.4(2), 117.4(3), and 117.4(4) do not apply to advertising devices located within areas exempt from control under Iowa Code section 306B.2(4).

117.4(1) *Interstate on-premise signs (restricted).* Within the adjacent area of any interstate highway not more than one on-premise sign, visible to traffic proceeding in any one direction on any one interstate highway, advertising activities conducted upon the real property where the sign is located, may be erected or maintained more than 50 feet from the advertised activity. Such on-premise signs more than said 50 feet shall be subject to the permit provisions of rule 117.6(306C).

117.4(2) *Interstate on-premise signs (for sale or lease).* Within the adjacent area of any interstate highway, not more than one on-premise sign advertising the sale or lease of the same property upon which the sign is located may be permitted in such a manner as to be visible to traffic proceeding in any one direction on any one interstate highway.

117.4(3) *Interstate on-premise size limitations.* An on-premise sign within the adjacent area of an interstate shall be no larger than 20 feet in length, width or height and 150 square feet in area. However, an on-premise sign advertising activities conducted within 50 feet of the sign is exempt from these size limitations. This exemption does not apply to a sign advertising the sale or lease of property where the sign is located.

117.4(4) *Interstate on-premise signs (unrestricted).* Within the adjacent area of any interstate highway, on-premise signs advertising activities conducted within 50 feet of the sign, located upon the same real property where the sign is located, are not subject to regulations as to number of signs, size, or spacing; however, for the purpose of determining the 50-foot distance, the limits of the advertised activity shall be determined as follows:

a. When the advertised activity is a business, commercial or industrial land use, the distance shall be measured from the regularly used buildings, parking lots, storage or processing areas or other structures which are essential and customary to the conduct of the business.

b. When the advertised activity is a noncommercial or nonindustrial land use such as a residence, farm, or orchard, the distance shall be measured from the major structures or areas used in furtherance of the advertised activities.

117.4(5) *Interstate advertising devices not subject to control until July 1, 1972.* The following advertising devices along interstate highways became subject to control on July 1, 1972, and shall comply with rule 761—117.5(306C):

a. Advertising devices which are visible from any interstate highway, but which are located beyond the adjacent area of any interstate highway in unincorporated areas.

b. Within adjacent areas, advertising devices which are located in commercial or industrial zones traversed by segments of the interstate system within the boundaries of incorporated municipalities as these boundaries existed September 21, 1959, where the use of property adjacent to the interstate system is subject to municipal regulation and control, or other areas where the land on September 21, 1959, was clearly established by law for industrial or commercial purposes.

761—117.5(306C) Interstate highways not subject to control until July 1, 1972, freeway-primary highways, and primary highways. Subject to the more strict provisions of rule 761—117.4(306B,306C), no advertising device which is visible from any interstate, freeway-primary, or primary highway shall be erected or maintained unless it complies with this rule. This rule does not apply to on-premise signs.

117.5(1) *Advertising devices lawfully in existence prior to July 1, 1972.*

a. An advertising device that was lawfully in existence prior to July 1, 1972, and is visible from any interstate, freeway-primary or primary highway may remain in existence without conforming to subrule 117.5(5) as long as the device otherwise conforms to all other applicable statutory and regulatory requirements. The permit provisions of rule 761—117.6(306C) apply.

b. If the advertising device is located in an adjacent area which is neither a zoned nor an unzoned commercial or industrial area, the device may remain in existence as described in paragraph *"a"* of this subrule only until such time as the device is acquired by the department. The permit issued for the device will be a provisional permit. See subrule 117.6(3) and rule 761—117.9(306B,306C).

117.5(2) *Advertising devices lawfully in existence prior to July 1, 1972, beyond 660 feet from the right of way.* Rescinded IAB 11/27/02, effective 1/1/03.

117.5(3) *Abandoned signs.* Abandoned signs which do not comply with these rules shall be removed by the department without compensation regardless of when erected.

117.5(4) *Advertising devices lawfully in existence prior to July 1, 1972, within adjacent areas neither zoned nor unzoned commercial or industrial.* Rescinded IAB 11/27/02, effective 1/1/03.

117.5(5) *Advertising devices erected after July 1, 1972.* No advertising device which is visible from any interstate, freeway-primary, or primary highway shall be erected after July 1, 1972, or subsequently maintained within the adjacent area in incorporated areas or within or beyond the adjacent area in unincorporated areas unless it complies with the following:

a. Permit required. A current permit from the department is required for the erection or subsequent maintenance of the advertising device.

b. Commercial or industrial area. The advertising device must be located within a zoned or unzoned commercial or industrial area.

c. Spacing within city—interstate and freeway-primary highway. Within the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from a freeway-primary highway or an advertising device which is located in a commercial or industrial zone traversed by a segment of the interstate system within the boundaries of an incorporated municipality as these boundaries existed on September 21, 1959, where the use of the property adjacent to the interstate system is subject to municipal regulation or control:

(1) The advertising device shall not be located within 250 feet of another advertising device when both are visible to traffic proceeding in the same direction.

(2) The advertising device shall not be located within the adjacent area on either side of the highway within 250 feet of an interchange or rest area. The 250 feet shall be measured along a line parallel to the centerline from a point opposite the end or beginning of whichever acceleration or deceleration ramp extends the farthest from the interchange or rest area to a point opposite the advertising device.

(3) In an area where two interchanges are in such close proximity that the acceleration or deceleration lanes or ramps merge or overlap or where there are continuous acceleration or deceleration lanes between interchanges, the area will be treated as one continuous interchange.

d. Spacing outside city—interstate and freeway-primary highway. Outside the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from a freeway-primary highway; an advertising device which is visible from an interstate highway and is located within the adjacent area in a commercial or industrial zone traversed by a segment of the interstate system where the land use as of September 21, 1959, was clearly established by Iowa law as industrial or commercial; or an advertising device which is visible from an interstate highway and is located beyond the adjacent area:

(1) The advertising device shall not be located within 500 feet of another advertising device when both are visible to traffic proceeding in the same direction.

(2) The advertising device shall not be located within the adjacent area on either side of the highway within 250 feet of an interchange or rest area. The 250 feet shall be measured along a line parallel to the centerline from a point opposite the end or beginning of whichever acceleration or deceleration ramp extends the farthest from the interchange or rest area to a point opposite the advertising device.

(3) In an area where two interchanges are in such close proximity that the acceleration or deceleration lanes or ramps merge or overlap or where there are continuous acceleration or deceleration lanes between interchanges, the area will be treated as one continuous interchange.

e. Spacing within city—nonfreeway-primary highway. Within the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from a nonfreeway-primary highway:

(1) The advertising device shall not be located within 100 feet of another advertising device when both are visible to traffic proceeding in the same direction.

(2) The advertising device shall not be located within the daylight area. However, if a building is located within the daylight area, a wall advertising device may be attached to the building provided the device does not protrude more than 12 inches, exclusive of catwalk and lights. No part of a catwalk or lights may overhang the right of way. The permit for the advertising device shall be revoked if the building the device is attached to is removed.

f. Spacing outside city—nonfreeway-primary highway. Outside the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from a nonfreeway-primary highway:

(1) The advertising device shall not be located within 300 feet of another advertising device when both are visible to traffic proceeding in the same direction.

(2) The advertising device shall not be located within the daylight area. However, if a building is located within the daylight area, a wall advertising device may be attached to the building provided the device does not protrude more than 12 inches exclusive of catwalk and lights. No part of a catwalk or lights may overhang the right of way. The permit for the advertising device shall be revoked if the building the device is attached to is removed.

g. Spacing—signs separated by a building. The distance and spacing requirements of subparagraphs "*c*"(1), "*d*"(1), "*e*"(1), and "*f*"(1), above, shall not apply to advertising devices which are separated by a building in such a manner that only one advertising device located within the minimum spacing distance is visible from a highway at any one time.

h. Spacing—measurement of distance. The minimum distance between two advertising devices visible to traffic proceeding in the same direction shall apply without regard to the side of the highway on which the advertising devices may be located and shall be measured along a line parallel to the centerline of the highway between points directly opposite the advertising devices. When a sign is visible and subject to control from more than one highway (interstate, freeway-primary or primary), it must meet spacing requirements along each route.

i. Spacing—rural area next to incorporated area.

(1) In a rural area next to an incorporated area, the first rural sign placement shall be no closer than the rural spacing requirement measured from the point where the corporation line intersects the centerline or from the point where a line normal or perpendicular to the centerline of the highway intersects the first unincorporated area within the adjacent area to a point directly opposite the first potential sign location.

(2) In those areas where the adjacent area on one side of the highway is incorporated and on the opposite side of the highway all or part of the adjacent area is not, the spacing on both sides of the highway shall be regulated by the rural or unincorporated area spacing requirements.

j. Signs not considered when determining spacing. Directional and other official signs and notices and on-premise advertising devices shall not be taken into consideration in determining compliance with spacing requirements.

k. Sizes and types. Only the following types of advertising devices are permitted: single-face, side-by-side, double-deck, tri-vision, back-to-back, v-type, and tri-face.

(1) The multiple faces or panels of an advertising device must be contiguous or on a common structure. Side-by-side structures are contiguous if the faces are not more than two feet apart and they are owned by the same permit holder. Side-by-side structures must be on the same vertical and horizontal planes.

(2) A maximum of one face of an advertising device may be visible to traffic proceeding in any one direction. An advertising device other than a tri-face device may have no more than two faces.

(3) For an advertising device with one face, the maximum display area of the face is 1200 square feet. This applies to single-face, side-by-side, double-deck and tri-vision devices.

(4) For an advertising device with two or more faces, the maximum display area of each face is 750 square feet. This applies to back-to-back and v-type devices (which have two faces) and tri-face devices (which have three faces).

(5) Each message on a tri-vision device must be displayed for a minimum of four seconds and the transition between messages must be completed in two seconds.

l. Spacing—transition to freeway-primary highway. As a segment of a noninterstate primary highway changes to a freeway-primary highway, the first freeway-primary highway sign placement shall be no closer than the freeway-primary highway spacing requirements measured along a line parallel to the centerline from a point opposite the point where the centerline of the highway and centerline of the at-grade crossing intersect to a point opposite the first potential sign location. See the appendix for an illustration of this spacing requirement.

761—117.6(306C) Outdoor advertising permits and fees required. The owner of every advertising device visible from the main traveled way of any interstate, freeway-primary or primary highway, regulated by the more restrictive provisions of rule 117.4(306B,306C), except subrules 117.4(2) and 117.4(4), and rule 117.5(306C), is required to have made application for a permit to the department on or before July 31, 1972, if the device was in existence on July 1, 1972; or if the advertising device is erected after July 1, 1972, the owner is required to first obtain a permit from the department prior to the erection of the advertising device. Any advertising device which is lawfully erected which later becomes subject to the provisions of these rules due to an event such as establishment of a new highway or change in the designation of a highway, the owner of the advertising device so affected shall make application to the department for an advertising permit within 30 days of the event. In the case of advertising devices lawfully in existence in areas adjacent to any highway made an interstate, freeway-primary, or primary highway after July 1, 1972, the owner of the advertising device is required to make application for a permit and pay the required fee within 30 days after the highway acquired the designation. Upon timely application for a permit and payment of the required fee, advertising devices lawfully erected which become nonconforming due to such event after July 1, 1972, shall be eligible for permits as if the devices were erected prior to July 1, 1972.

117.6(1) *Application.* Application for a permit shall be made in accordance with Iowa Code section 306C.18.

a. A permit is required for each face of an advertising device; thus, a permit application must be submitted for each face. Three permits are required for a tri-face device if all three faces are visible from the main traveled way of an interstate, freeway-primary, or primary highway. However, only one application and permit are required for a back-to-back advertising device that identifies the same business or service on each face if each face is no larger than 8 feet in width or height and 32 square feet in area.

b. A copy of the current lease shall be submitted upon application for a permit.

c. Any intentional falsification or misrepresentation of information in the application or renewal process shall result in immediate denial or revocation of the permit.

117.6(2) *Fees.*

a. The initial fee, payable at the time of application, is $100 per permit. This fee is not refundable unless the application is withdrawn prior to the department's field review of the proposed location.

b. The annual renewal fee for each permit, due on or before June 30 of each year, is as follows:

Area of Sign	Annual Renewal Fee
Up to 375 square feet	$15
376 to 999 square feet	$25
1000 square feet or more	$50

For tri-vision signs, the area shall be calculated by multiplying the area of the face by three.

(1) The renewal fee is not refundable.

(2) Failure to timely pay the annual renewal fee when due shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device as an abandoned sign.

c. Fees shall not be prorated.

d. If an outdoor advertising permit is revoked, any permit fee paid is forfeited.

117.6(3) *Permits to be issued.*

a. The department shall issue an outdoor advertising permit in accordance with Iowa Code section 306C.18.

b. An advertising device that was lawfully in existence prior to July 1, 1972, and is located within an adjacent area which is neither a zoned nor an unzoned commercial or industrial area shall be issued a provisional permit and annual renewals thereof upon timely application and payment of the required fees, until such time as the department acquires the advertising device. See rule 761—117.9 (306B,306C).

117.6(4) *Permit plate.*

a. Upon approval of the application, the department shall issue a metal permit plate for the advertising face.

b. The owner of the advertising device shall securely attach the plate to the advertising face at the bottom corner nearest the main traveled way or to the support structure immediately below the bottom corner. If these locations do not permit unobscured display of the permit number, the permit plate shall be attached to another prominent area of the advertising device. The permit number shall not be obscured when viewed from the main traveled way.

c. The owner of an advertising device is responsible for replacing a permit plate that is missing or illegible. To obtain a replacement, the owner shall apply to the department and pay a $10 fee.

d. If the department notifies the owner of the advertising device that a permit plate is not properly displayed, the owner shall within 90 days of notification either correct the situation or secure and display a replacement permit plate. Failure to properly display a permit plate after the 90-day period has expired shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(2) or 117.8(3), as applicable.

117.6(5) *New permit required for reconstruction or modification.* A new permit is required from the department prior to the reconstruction or modification of an advertising device subject to the permit provisions of this rule.

a. To obtain a new permit, the owner of the advertising device shall submit a new application to the department, accompanied by the initial application fee.

b. A reconstructed or modified advertising device is subject to the provisions of this chapter as if it were a new advertising device.

c. Reconstruction or modification of an advertising device prior to the issuance of the required permit shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(2) or 117.8(3), as applicable.

d. Rescinded IAB 4/7/99, effective 5/12/99.

117.6(6) *One year to erect advertising device.* The permit for an advertising device that has not been erected within one year after the date the permit was issued shall be revoked. After revocation, a new permit is required. To obtain a new permit, the owner of the advertising device shall submit a new application to the department, accompanied by the initial application fee and a copy of the current lease.

117.6(7) *Access.* Access to the private property upon which an advertising device is located shall be gained from highway right of way only at access points designated or allowed by the department in accordance with 761—Chapter 112. An initial violation of this requirement by or on behalf of the permit holder shall result in the department sending a written warning by certified mail to the permit holder. A second violation of this requirement shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(2) or 117.8(3), as applicable. If a permit is revoked for an access violation, the permit holder is ineligible to apply for a permit for at least 12 months after revocation for any location within 500 feet of the revoked permit's sign location.

117.6(8) *Destruction of vegetation.* Without the written authorization of the department, vegetation growing on the highway right of way shall not be cut, trimmed, removed, or in any manner altered or damaged to improve the visibility of an advertising device. Violation of this prohibition by or on behalf of the permit holder shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(2) or 117.8(3), as applicable. If a permit is revoked for destruction of vegetation, the permit holder is ineligible to apply for a permit for 12 months after revocation for any location within 500 feet of the revoked permit's sign location.

117.6(9) *Blank sign.*

a. A blank sign is:

(1) An advertising device that has had a face physically removed.

(2) An advertising device that has been completely removed.

(3) An advertising device that does not display copy. "This space for rent" or a similar message is not copy.

(4) An advertising device that qualifies as an obsolete sign.

b. A sign that is a blank sign for at least six months shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(2) or 117.8(3), as applicable.

761—117.7(306C) Official signs and notices, public utility signs, service club and religious notices, and municipal recognition signs. This rule does not pertain to on-premise signs.

117.7(1) Rescinded, effective 7/8/87.

117.7(2) Rescinded, effective 7/8/87.

117.7(3) *Official signs and notices.* Official signs and notices regulated by the "Manual on Uniform Traffic Control Devices for Streets and Highways," as adopted in rule 761—130.1(321), shall comply with its provisions. All other official signs and notices shall comply with applicable state law, local ordinance or administrative authority. Historical markers shall be subject to the approval of the department if they are erected within the right of way of any interstate, freeway-primary or primary highway.

117.7(4) *Public utility signs.* Public utility signs shall be erected no larger than required to adequately convey the necessary message, and only at such places as are required to adequately mark the location of the utility, and subject to the approval of the department if located within the right of way of any highway under its jurisdiction.

117.7(5) *Service club and religious notices.*

a. Service club and religious notices shall not be placed within the right of way.

b. Service club and religious notices may be placed within the adjacent area of an interstate highway only if they are eligible for issuance of an outdoor advertising permit. All permit provisions apply, including but not limited to size and spacing requirements of subrule 117.5(5) and permit fees.

c. Service club and religious notices may be placed outside the right of way of a freeway-primary or primary highway and outside the adjacent area of an interstate highway. Notices in these locations may be grouped upon a common panel or on a municipal, county or school district recognition sign and shall comply with the following:

(1) The message shall comply with the definition of "service club or religious notice" in rule 761—117.1(306B,306C).

(2) A notice shall not exceed eight square feet in area.

(3) A notice shall comply with rule 761—117.3(306B,306C).

(4) The department's approval shall be obtained prior to erection. A special application form shall be filed with the department, but no fees are required.

117.7(6) *Municipal, county and school district recognition signs.*

a. Municipal, county and school district recognition signs shall not be placed within the right of way.

b. Municipal, county and school district recognition signs may be placed within the adjacent area of an interstate highway only if they are eligible for issuance of an outdoor advertising permit. All permit provisions apply, including but not limited to the size and spacing requirements of subrule 117.5(5) and permit fees.

c. A municipal, county or school district recognition sign may be placed outside the right of way of a freeway-primary or primary highway and outside the adjacent area of an interstate highway if the following conditions are met:

(1) The recognition sign shall comply with the definition of "Municipal, county or school district recognition sign" in rule 761—117.1(306B,306C).

(2) The recognition sign shall comply with rule 761—117.3(306B,306C).

(3) The recognition sign shall not display advertising.

(4) The recognition sign may identify no more than two sponsors of the sign. Each sponsor's message is limited to eight square feet in area and is limited to identifying the sponsor. No advertising or product logos are allowed.

(5) The department's approval of the recognition sign and its proposed location shall be obtained prior to the sign's erection. A special application form shall be filed with the department, but no fees are required.

761—117.8(306B,306C) Removal procedures. The department shall cause to be removed every advertising device illegally erected or maintained and every abandoned sign.

117.8(1) *Advertising devices lawfully in existence within 660 feet of the right of way not in zoned and unzoned commercial or industrial areas.* Rescinded IAB 11/27/02, effective 1/1/03.

117.8(2) *Removal of illegal and abandoned advertising devices under billboard control Act.* Any advertising device erected or maintained after July 1, 1972, in violation of Iowa Code chapter 306C, is a public nuisance and may be removed by the department upon 30 days' notice, by certified mail, to the owner of the advertising device and to the owner of the land on which the advertising device is located.

a. The notice shall require the owner of the advertising device to remove the advertising device if it is prohibited, or to cause it to conform to the provisions of these rules if it is not.

b. If the advertising device has not been removed or made to conform with the provisions of these rules, the department shall enter upon the land and remove the advertising device, aided by injunction to abate the nuisance and to ensure peaceful entry, if necessary.

c. Costs of removal, including fees and costs or expenses as may arise out of any action brought by the department to ensure peaceful entry and removal, shall be assessed against the owner of the advertising device. Should the owner of the advertising device fail to promptly pay such fees, costs, or expenses, the department shall proceed to advertise and sell the advertising device for purposes of collecting the same.

d. Any balance from the total receipts of the sale after deducting all fees, costs, and expenses, including those of the sale, shall be paid to the owner of the advertising device; however, if in the opinion of the department the proceeds of the sale will not be sufficient to justify the expense involved, the advertising device may be used, scrapped, dismantled, or otherwise destroyed or disposed of by the department as it sees fit.

e. No compensation shall be paid to the owner of any advertising device which is illegally erected or maintained except as may result pursuant to sale as provided for in paragraph 117.8(2)*"d."*

117.8(3) *Removal of illegal advertising devices under bonus Act.* Any advertising device erected or maintained in violation of the more strict provisions of Iowa Code chapter 306B is a public nuisance and may be removed by the department upon 30 days' notice, by certified mail, to the owner of the device and to the owner of the land on which the advertising device is located.

a. The notice shall require the owner of the advertising device to remove the advertising device if it is prohibited, or to cause it to conform to the provisions of these rules if it is not.

b. If the landowner or owner of the device fails to act within 30 days as required in the notice, the department may file a petition in the district court of the county where the advertising device is located to abate the nuisance.

c. If the court finds a violation exists as alleged in the petition, the court shall enter an order in abatement against the person or persons erecting and maintaining the advertising device and against the person or persons owning the land on which it is located.

d. If the landowner or owner of the sign fails to act within the time required in the order of abatement, the department may give 30 days' notice to the landowner or owner of the sign and at the end of 30 days the department may enter upon the land and remove the sign.

e. The department may be aided by injunction to abate the nuisance and to ensure peaceful entry.

f. Such entry after notice shall not be deemed a trespass and the department may be aided by injunction to abate the nuisance and to ensure peaceful entry.

g. The cost of removal, including any fees and costs or expenses as may arise out of any action brought by the department to ensure peaceful entry and removal, shall be assessed against the owner of the sign.

h. Should the owner of the sign fail to promptly pay such fees, costs or expenses, the department shall proceed to advertise and sell the sign for purposes of collecting the same.

i. Any balance from the total receipts of the sale after deducting the fees, costs and expenses, including those of the sale, shall be paid to the owner of the sign; however, if in the opinion of the department the proceeds of the sale will not be sufficient to justify the expense involved, the sign may be used, scrapped, dismantled, or otherwise destroyed or disposed of by the department as it sees fit.

117.8(4) *Misdemeanor.* Whoever erected or maintains an advertising device in violation of Iowa Code chapter 306B or in violation of these rules pertaining to the more strict provisions applicable thereto shall be guilty of a misdemeanor and upon conviction shall be fined not less than $25 nor more than $100.

117.8(5) *Removal from right of way and other state-owned property.* Advertising devices erected upon the right of way of any public highway shall be removed pursuant to Iowa Code section 319.13. Unauthorized advertising devices erected upon other property owned by the state of Iowa shall be subject to removal by the agency, board, commission or department having control or jurisdiction of the same. [Intended to implement Iowa Code chapter 319.]

761—117.9(306B,306C) Acquisition of advertising devices that have been issued provisional permits.

117.9(1) The department will acquire an advertising device for which a provisional permit has been issued only if all of the following conditions are met:

a. Acquisition is required by federal law.

b. All necessary federal and state funding is available for the purpose.

c. The permit has not been revoked.

117.9(2) If the advertising device will be acquired, the department will use the following procedure:

a. The department shall mail or deliver to the owner of the advertising device and to the owner of the land upon which the device is located a written notice of the department's intent to revoke the provisional permit and acquire the device. The notice shall include an offer to purchase the advertising device. If good-faith negotiations with the owner of the device and the owner of the land upon which the device is located do not result in a mutually agreeable sale price, the department shall revoke the provisional permit and initiate condemnation proceedings as provided in Iowa Code chapter 6B.

b. In the event of condemnation, the department will take possession of the advertising device as soon as the award has been deposited with the sheriff.

These rules are intended to implement Iowa Code chapters 306B and 306C.

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◊Three ARCs

Spacing--Transition To Freeway-Primary Highway